

**County of San Diego, Health and Human Services Agency (HHSa)  
Cash Assistance Program for Immigrants (CAPI) Program Guide**

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**A. Background:**

This section provides information regarding the treatment of trusts in CAPI.

**B. Policy:**

Assets held in trust are counted as a resource for purposes of determining eligibility. This policy applies only to trusts established on or after January 1, 2000 and without regard to:

- The purpose for which the trust was established
- If the trustees have or exercise any discretion under the trust
- Any restrictions on whether or not distributions may be made from the trust
- Any restrictions on the use of distributions from the trust.

**1. Definitions:**

The table below shows terms and their definitions used in this section.

<b>Term</b>	<b>Definition</b>
Trust	Legal arrangement regulated by state law in which one party holds property for the benefit of another. A trust may be revocable or irrevocable and the way they are treated varies.
Beneficiary	Person for whose benefit the trust exists. The beneficiary has no control of or access to the trust account. It is still counted as a resource.
Trustor	Person who creates the trust. An individual is considered to have established a trust if any of the assets of an individual (or the individual's spouse) are transferred to a trust other than by writ.
Trustee	Person who holds legal title to the trust account or property. The trustee has no legal right to revoke the trust or to use it for his/her own purpose.
Corpus of the Trust or Trust Principal	All property and other interests held by the trust, including accumulated earnings and any other addition to the trust after its establishment. It does not include earnings or additions that are not counted as a resource in the month they are credited or transferred to the trust, as they would be counted as unearned income.
Asset	For purposes of trust-counting, any income or resource of the individual or individual's spouse, including: <ul style="list-style-type: none"><li>• Income that would otherwise be excluded</li><li>• Resources that would be otherwise be excluded</li><li>• Any other payment or property to which the individual or individual's spouse is entitled, but does not receive or have access to because of action by:<ul style="list-style-type: none"><li>○ The individual or individual's spouse</li><li>○ A person or entity (including a court) with legal authority to act in place of, or on behalf of, the individual or individual's spouse</li><li>○ A person or entity (including a court) acting at the discretion of, or on the request of, the individual or individual's spouse.</li></ul></li></ul>
Income	Any earnings of, and additions to, the corpus of a trust established by an individual to which the trust provisions apply.

**2. Treatment of Revocable and Irrevocable Trusts:**

The table below shows how to treat trusts based on if they are revocable or irrevocable.

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<b>If the trust is ...</b>	<b>And ...</b>	<b>Then count the ...</b>
revocable,	was established by the individual,	corpus of the trust as a resource.
irrevocable,	payment to or for the benefit of the individual or the individual's spouse could be made,	portion of the trust from which payments could be made as a resource.
irrevocable,	assets of the individual (or individual's spouse) are combined with assets from another person,	portion attributable to the individual (or spouse) as a resource.

**3. Exceptions to the Trust Policy:**

Counting assets held in trust as a resource for determining CAPI eligibility does not apply if:

- It is determined that application of the policy would cause the individual undue hardship (for example, deprivation of food and shelter)
- Upon the individual's death, the trust requires reimbursement to the State for Medi-Cal expenditures made on behalf of the individual.

The table below shows the two types of these trusts.

<b>Type of Medi-Cal Related Trust</b>	<b>Social Security Act Section</b>
Medi-Cal pay back trusts	1917(d)(4)(A)
Medi-Cal pooled trusts, which are administered by a non-profit association and may contain the assets of a large number of individuals	1917(d)(4)(C)

**4. Treatment of Trust Related Expenditures:**

The table below shows how to treat trust related expenditures.

<b>Type of Expenditure</b>	<b>Treatment</b>
Trust expenditures made on behalf of the recipient	Count as income.
Expenditures made for food, clothing, or shelter	Count as ISM, subject to PMV.
Expenditures made for other items, which can be converted to cash	Count as in-kind income equal to the current market value of the item.
Expenditures for services such as medical care or rehabilitation treatment	Do not count as income.
Direct payments to the beneficiary	Count as income.
Earnings of, and additions to, the corpus of a trust established by an individual to which the trust provisions apply	Count as unearned income.

**5. Undue Hardship Exception:**

Undue hardship exists if:

- The individual alleges that failure to receive CAPI payments would deprive him/her of food or shelter; and the total available funds (income and liquid resources) do not equal or exceed the CAPI payment for his/her living arrangement

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- He/she would be subject to eviction from the current residence if CAPI benefits were not received; and there is no other affordable housing available, or none with necessary modifications for a disabled individual.

**C. Procedure:**

Follow the steps in Processing Guide 99-104.6A to evaluate a trust and to determine if under hardship exists.

**Other Program Impacts:**

None.

**References:**

SSI POMS SI 01120.201

**Sunset Date:**

This policy will be reviewed for continuance on or by 07/31/2019

**Release Date:**

07/01/2016